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April 11, 2019

**VIA ECF**

Honorable J. Paul Oetken  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: *Rubenstein v. Sears Holdings Corp. et al*, 1:17-cv-821-JPO

Dear Judge Oetken:

We represented the defendants in the above captioned matter. The Court may recall that on August 6, 2018, the Court ordered that the caption be modified as set forth in docket number 79-1. *See* Dkt. No. 80 (text only order stating: "THE CAPTION SHALL BE MODIFIED AS SET FORTH IN DOCKET NUMBER 79-1. SO ORDERED."). Now that the Court's Opinion and Order dismissing the action with prejudice (Dkt. No. 95) has been appealed (*see* Dkt. No. 97), we have attempted to file an Acknowledgement and Notice of Appearance in the Second Circuit. However, we have been unable to do so because the caption change was never entered by the Southern District of New York civil Dockets Unit and, as a result, there is no option for us to e-file a notice of appearance on behalf of the corrected defendants. We spoke with the Dockets Unit by phone today and was told that the text order at Dkt. No. 80 is insufficient for the Dockets Unit to take any action and that the Dockets Unit cannot correct the caption without a directive from the court expressly instructing the it to change the caption. While we submit that

the Court's text order (Dkt. No. 80) was quite clear, the Dockets Unit stated that it must be "directed" to take action. Accordingly, we respectfully request that the Court direct the Dockets Unit to change the caption as set forth in Dkt. No. 79-1, consistent with the Court's previous text order at Dkt. No. 80.

We regret any inconvenience and thank the Court for its courtesies.

Respectfully submitted,

s/ Mark J. Hyland  
Mark J. Hyland

cc: Miriam Tauber, Esq., *Counsel for Plaintiff Aaron Rubenstein* (by ECF filing)  
David Lopez, Esq., *Counsel for Plaintiff Aaron Rubenstein* (by ECF filing)  
Joseph E. Floren, Esq., *Counsel for Nominal Defendant Sears Holding Corp.* (by ECF filing)

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